

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.A. No.864 of 2001 and
C.M.P.No.7719 of 2001

R.Ramalingam

.. Appellant

-vs-

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Adi Dravidar Tribal Welfare Department,
Fort St.George, Chennai 600 009.

2.The Special Tahsildar, (L.A.)
Adi Dravidar Welfare,
Cuddalore, South Arcot District.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order made in W.P.No.14758 of 1994 dated 28.03.2001 to issue a Writ of Certiorari calling for the entire records leading to the issue of section 4(1) notification made in G.O.3.D.No.558 Adi Dravidar and Tribal Welfar Department dated 24.08.1992 and the declaration under Section 6 made in G.O.(3-D) No.632, Adi Dravidar Tribal Welfar Department dated 14.09.93 under the Land Acquisition Act in respect of the petitioner's 0.37.0 hectares of land in Survey No.184/8, Chennappanaickenpalayam Village, Cuddalore Taluk, South Arcot District and quash the same.

For Appellant : Mr.N.P.Muthukumar
for Mr.K.Sridhar

For Respondents : Mr.P.Subramaniam, G.A.

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 28.03.2001 made in W.P.No.14758 of 1994, in and by which the learned Judge dismissed the writ petition on the grounds of laches and delay.

2. Heard the learned counsel appearing for the appellant as well as the learned Government Advocate.

3. It is not in dispute that the learned Judge, without going into the merits of the contentions raised relating to the acquisition proceedings, after finding that the writ petition was filed in 1994 i.e. on 19.08.1994, after a period of one year from the date of declaration under Section 6 of the Land Acquisition Act, dismissed the same.

4. In such circumstances, let us consider the relief prayed for in the writ petition, which reads as under:

"...to issue a direction in the nature of a writ calling for the entire records leading to the issue of section 4 (1) notification made in G.O.3-D No.588 Adi Dravidar and Tribal Welfare Department dated 24.08.1992 and the declaration under Section 6 made in G.O.(3-D) No.632, Adi Dravidar Tribal Welfare Department dated 14.09.1993 under the land Acquisition Act in respect of the petitioner's 0.37.0 hectares of land in Survey No.184/8, Chennappanaickanpalayam Village, Cuddalore Taluk, South Arcot District and quash the same..."

5. It is clear from the above prayer that the petitioner has sought for quashing of 4(1) notification published in the Gazette dated 24.08.1992 and the declaration dated 14.09.1993, in respect of his land to an extent of 0.37.0 hectares in Survey No.184/8, Chennappanaickanpalayam Village, Cuddalore Taluk.

6. Even according to the learned Judge, the writ petition has been filed on 19.08.1994 and declaration under Section 6 of the said Act was published on 14.09.1993. First of all, there is no period of limitation, particularly, one year from the date of declaration, as observed by the learned Judge. This Court as well as the Apex Court have taken a view that after passing of the award and taking possession of the land, the land owner cannot be permitted to challenge the acquisition proceedings after considerable delay. At this stage, the learned Government Advocate has brought to our notice that the award was passed on 21.10.1994. The said information makes it clear that before passing of the award, the petitioner has filed the above writ petition i.e. on 19.08.1994. In such circumstances, we are of the view that the learned Judge is not right in dismissing the writ petition only on the ground of laches and delay. We are of the view that the learned Judge ought to have gone into the merits of the claim made by the writ petitioner, challenging the acquisition proceedings. On this ground, the order of the learned Judge dated 28.03.2001 is set aside and the matter is remitted to the learned Judge for fresh disposal. The writ appeal is allowed to that extent. No costs. Consequently, connected miscellaneous petition is closed.

7. Inasmuch as the writ petition is of the year 1994, Registry is directed to include the writ petition before the learned Judge dealing with the subject immediately for final hearing.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

1.The Secretary to Government,State of Tamil Nadu,
Adi Dravidar Tribal Welfare Department,
Fort St.George, Chennai 600 009.

2.The Special Tahsildar, (L.A.), Adi Dravidar Welfare,
Cuddalore, South Arcot District.

3. The Section Officer,
Writ Section,
High Court, Madras.

(directed to include WP.No.14758/94 for
final hearing as mntioned supra)

1 cc To The Government Pleader, SR.50028.

1 cc To Mr.K.Sridhar, Advocate, SR.50006.

W.A.No.864 of 2001

GM(CO)
RVL 10.11.2006

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